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OFFICE OF PETITIONS

In re Patent No. 7,435,581
Larry Eugene West
Issue Date: October 14, 2008
Application No. 10/723,168
Filed: November 26, 2003
Atty Docket No.**BROAD.028A**

: DECISION ON REQUEST
: FOR
: RECONSIDERATION OF
: PATENT TERM ADJUSTMENT
: and
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on November 19, 2008, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand, one hundred and sixty-five (1,165) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by five hundred sixty-one days is **GRANTED**¹.

The Office acknowledges receipt of \$200.00 for the fee set forth in 37 CFR 1.18(e). No additional fees are required.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term

¹ The record reflects that on July 2, 2008, patentees submitted a supplemental reply or paper in the form of an Information Disclosure Statement (IDS) after filing a reply to a non-final Office action on May 2, 2008. The record does not support a conclusion that the examiner expressly requested the filing of the IDS. Further, a review of the IDS, filed July 2, 2008, reveals that patentees did not include a statement under 37 CFR 1.704(d). Thus, patentees failed to engage in reasonable efforts to conclude prosecution of the application. Accordingly, the period of adjustment should have been reduced by 61 days pursuant to 37 CFR 1.704(c)(8), counting the number of days beginning on the day after the date the initial reply was filed, May 3, 2008, and ending on the date that the IDS was filed, July 2, 2008. A period of reduction of 61 days will be entered accordingly.

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of the above-identified patent is extended or adjusted by **one thousand, one hundred and sixty-five (1,165) days**

Telephone inquiries specific to this matter should be directed to the undersigned, at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 7,435,581 B2

DATED : Oct. 14, 2008

INVENTOR(S) : West

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (570) days

Delete the phrase "by 570 days" and insert -- by 1165 days--